

# Deteriorating Residential Concrete Foundations



Joseph McCarthy, CPA  
IRS Senior Stakeholder Liaison

Welcome to Today's  
IRS Webinar

# **Deteriorating Residential Concrete Foundations**

# Casualty loss defined

A casualty is the damage, destruction, or loss of property resulting from an identifiable event that is sudden, unexpected or unusual

Loss of property due to progressive deterioration isn't deductible as a casualty loss.

IRS Revenue Procedure Section 2.05

# How to qualify for the safe harbor

The safe harbor under this revenue procedure is available to a taxpayer who has:

- obtained a written evaluation from a licensed engineer indicating that the foundation was made with defective concrete, and ....

# How to qualify for the safe harbor (continued)

- has requested and received a reassessment report that shows the reduced reassessed value of the residential property based on the written evaluation from the engineer and an inspection pursuant to Connecticut Public Act No. 16-45.

IRS Revenue Procedure 2017-60 Section 4.01

# How to qualify for the safe harbor

The safe harbor also is available to a:

- Taxpayer whose personal residence is ... in Connecticut or outside of Connecticut provided the taxpayer has obtained a written evaluation from a licensed engineer indicating that the foundation was made with defective concrete containing the mineral pyrrhotite.

Revenue Procedure 2017-60 Section 4.01

# Casualty losses

Existing regulations permit taxpayers to use the cost to repair the damaged property as evidence of the decrease in the value of the property.

IRS Revenue Procedure 2017-60 Section 2.08

# Casualty loss limitations

The amount of a taxpayer's loss resulting from the deteriorating concrete foundation is limited to the taxpayer's adjusted basis in the property. In addition, the amount of the loss may be limited depending on whether the taxpayer has a pending claim for reimbursement ...



# Casualty loss limitations

A casualty loss deduction is allowable only for the amount of the loss that exceeds \$100 per casualty. Second, the net amount of all of a taxpayer's casualty losses (in excess of casualty gains, if any) is allowable only for the amount of the losses that exceeds 10 percent of the taxpayer's adjusted gross income (AGI) for the year.

Revenue Procedure 2017-60 Section 2.09

# Casualty loss limitations

A taxpayer who does not have a pending claim for reimbursement, and who does not intend to pursue reimbursement, may claim as a loss all unreimbursed amounts (subject to the adjusted basis limitation) paid during the taxable year to repair damage to the taxpayer's personal residence caused by the deteriorating concrete foundation.

Revenue Procedure 2017-60 Section 4.02

# Casualty loss limitations

A taxpayer who has a pending claim for reimbursement, or who intends to pursue reimbursement, may claim a loss for 75 percent of the unreimbursed amounts paid during the taxable year to repair damage to the taxpayer's personal residence caused by the deteriorating concrete foundation.

Revenue Procedure 2017-60 Section 4.02

# Casualty loss limitations

Only amounts paid to restore the taxpayer's personal residence to the condition existing immediately prior to the damage qualify for loss treatment.

Revenue Procedure 2017-60 Section 4.03

# Casualty loss not allowed

Taxpayers who choose not to apply the safe harbor treatment provided by this revenue procedure are subject to all of the generally applicable provisions governing the deductibility of losses under § 165.

Revenue Procedure 2017-60 Section 4.04

# Claiming the casualty loss

A taxpayer claiming a casualty loss under this revenue procedure must report the amount of the loss on Form 4684 (“Casualties and Thefts”) and must mark “Revenue Procedure 2017-60” at the top of that form.

Revenue Procedure 2017-60 Section 4.05

# Claiming the casualty loss

This revenue procedure is effective for federal income tax returns (including amended federal income tax returns) filed after November 21, 2017.

# Timing of payments

If a taxpayer pays to repair damage to that taxpayer's personal residence caused by a deteriorating concrete foundation during the taxpayer's 2016 taxable year or earlier, the taxpayer may treat the amount paid as a casualty loss on a timely Amended U.S. Individual Income Tax Return (Form 1040X) for the taxable year of payment.

Revenue Procedure 2018-14 section 3.01



## Timing of payments - 2018

If a taxpayer pays to repair the damage after filing an original 2017 income tax return and prior to the last day for filing a timely Form 1040X for the 2017 taxable year, the taxpayer may treat the amount paid as a casualty loss on a timely filed Form 1040X for the 2017 taxable year.

# Net Operating Losses

Casualty loss deductions that qualify for the safe harbor under Revenue Procedures 2017-60 and 2018-14 are treated as trade or business deductions and can create or increase a taxpayer's NOL. A taxpayer can carry these NOLs back 2 years and forward 20 years, and the NOLs can offset 100 percent of the taxpayer's taxable income in the carryback or carryover years. Any NOLs from casualty losses meeting the requirements of Rev Procedures 2017-60 and 2018-14 are treated as arising

either in or before the 2017 taxable year.

# References

- Revenue Procedure 2017-60
- Revenue Procedure 2018-14

Questions?